

REMARKS

BY

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BEFORE THE

ARKANSAS BAR ASSOCIATION AND ARKANSAS JUDICIAL COUNCIL

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Thank you, Tom.* I am very pleased to be back in Arkansas and especially pleased to be introduced by Judge Eisele, who is not only one of the great judges in our country but also one of my dearest friends.

I would like to take this occasion to say, "Welcome to my hotel." You're probably wondering why I would say that, but I'm sure there are very few of you who did not know, or know of, the late great Judge John Miller. When I came to Hot Springs for the first time as a young United States attorney, I stayed in this hotel. As I was coming back with a group one night, Judge Miller was sitting out in the lobby. He called us over and said, "Boys, are you enjoying yourselves?"

"Yes, Judge, we're having a great time."

"Well, I hope so. I want you to know that this is your hotel."

So, welcome to my hotel.

That was in 1960. Actually the first trip I made as a lawyer to Arkansas was 10 years before in 1950. I hadn't been practicing too long, and I hadn't been asked to go anywhere by my firm until finally I had this wonderful opportunity to take an out-of-town trip to Bentonville, Arkansas. The only train that went to Bentonville didn't really go to Bentonville. It went to Rogers. The milk train dropped me off at Rogers at 2:00 in the morning. I was able to sleep for a couple of hours until the bus started to run again.

* Tom Eisele, Chief Judge, U.S. District Court, Eastern District of Arkansas.

Then over to Bentonsville where I hooked up with now Judge Bill Enfield and his partner Clayton Little for some very important litigation.

Yesterday, I had the pleasure of flying in directly from Washington on a Lear jet, a slightly different means of transportation due to the generosity of a drug trafficker who got a little careless.

My first trip to Arkansas was in 1938. I came as a very young boy to stay with my cousin Judge George Cracraft and his father and to see the first law office I had ever seen. I learned a lot about life while I was here in Arkansas. I should say that George and I had a common ancestor, Katy Montgomery, of whom we are both very proud. She was a spy in George Washington's army. She carried messages in her clothing across the enemy lines in North Carolina. Her descendants eventually came this way. That is my claim to expertise.

Tomorrow, George is on a panel entitled "Behavior and Misbehavior in Court." I'm not sure about the first half of that, but I can tell you from my own experience that George had learned all there was to learn about misbehavior by the time he was 15 years old

There are many friends I associate with Arkansas including Tom Eisele, Judge Pat Mehaffy who swore me in, my former colleague Smith Henley, and my good friend, Herschel Friday, with whom I played tennis this morning. Coming here is a lot like coming home. Richard Arnold had distinguished himself on the Court of Appeals, and I had the pleasure, as chairman of the nominating committee, of introducing him to the Council of the American Law Institute. The president, a preeminent, contestable Wall Street lawyer, called upon Dick to give a short comment which he presented entitled "Arkansas: A View of the

A.L.I. from the Middle West." Richard Arnold stood up -- you would have been proud of him -- and he said, "I'm pleased to be a new council member of the American Law Institute, but the first thing I must say to you is that Arkansas is not in the Middle West." He said, "It may be because Arkansas was the first state to sign the Articles of Confederacy that we were penalized by being placed in the Eighth Circuit." Then he said, "In this day when we are all trying to understand who we are, I can only tell you that while I may not know who I am, I know where I'm from and I thought you ought to know, too."

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I brought along my special assistant, [] a native of Arkansas who has an undergraduate degree from Harvard, a graduate degree from Princeton, and a law degree from New York University Law School. His father is a Methodist minister over in Mountain Home. And I'd like to introduce []

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[] to you.

Coming up with an introduction for myself has become quite a challenge over the last 20 years as I have tried to hold down one kind of job or another. When I went on the bench, they gave me a gavel. When I went to the FBI, they gave me a badge. When I came to the CIA, they gave me a button. It said: "My job is so secret that even I don't know what I'm doing." But I'm trying.

My good friend, General Vernon Walters, former Deputy Director of Central Intelligence and now our Ambassador to the United Nations, describes the view many Americans have not only of secrecy, but of intelligence in general. "Americans," he observed, "have always had an ambivalent attitude toward intelligence. When they feel threatened, they want a lot of it, and when they don't, they tend to regard the whole thing as somewhat

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immoral." I think General Walters' remark is right on the mark. I appreciated what Judge Eisele had to say because it, too, was right on the mark.

Americans have certainly had a lot to say about intelligence over the past year. The Iran-Contra affair, painful as it may have been, has shown us the extent to which CIA, other agencies of the executive branch, Congress, and foreign policy itself are all interrelated. I'd like to talk to you today about the role the CIA plays in supporting and implementing foreign policy -- which is not the same as making foreign policy. There is no CIA foreign policy. Our job, and our responsibility, is to support the foreign policy of our country. I also want to discuss the changing nature of congressional oversight, and the importance of building trust in the Central Intelligence Agency's mission. Americans, in my view, need to believe that this Agency and other government agencies are responsive, accountable, and not above the law.

The CIA's primary role is to provide support to our nation's policymakers. We do that by providing intelligence that is useful, timely, and objective.

Today our government depends very heavily on useful and accurate intelligence: intelligence to formulate and implement our foreign policy, intelligence to verify the arms agreements that we have signed, and intelligence to understand both the military capabilities and the intentions of our adversaries. Intelligence is important in verifying the INF agreement that we have reached, and it will most assuredly be ever more important in verifying any START agreement that may be reached in the future. Congress has expressed its deep concern about our ability to monitor a limited missile

elimination program, and we have considered it both in terms of our present capability for national technical needs, largely for electronic satellites in the sky, and in terms of what investments we must make now if we are going to be able to carry out our responsibilities for such an agreement. Especially if we ever have a space defense or SDI type of agreement.

Intelligence must be timely. Right after I took office, I followed my friend Bobby Inman's advice and visited NORAD in Colorado Springs, site of the Eighth Circuit Conference. There in the Cheyenne Mountains is one of the principal early warning systems for our country's national defense. I make it a point to keep going and seeing these sites as I'm able, even in other parts of the world as I did in March. Also, I went to see our SAC Headquarters in Omaha.

Last week, I was in Norfolk onboard a nuclear submarine and the John F. Kennedy aircraft carrier, both of which have substantial intelligence collection capabilities and which rely on our overall technical means to guide our nation in its military defense around the world. Given the speed at which nuclear missiles are able to travel today, we have to think in terms of survival warnings. We think not in terms of days or hours, but in minutes.

Not only must intelligence be useful and timely, it is important that the information that is collected be developed in an objective way. The Director of Central Intelligence and the people who analyze information must be seen as giving their best estimates, not "cooking the books" to shape or influence foreign policy, but to provide the policymakers with the kind of sound information upon which they can make wise decisions in the interests of our national security.

Because the quality and objectivity of the intelligence we provide is so important, I have taken a number of steps to ensure that the Intelligence Community preserves its objectivity and protects its integrity. We have and will continue to "tell it as it is," avoiding bias as much as we can. On the other side of the coin, policymakers may not, and often do not, like the message they hear from us, especially if they have a different point of view, or more especially, if they have already acted before requesting or receiving our information. My position is that in the preparation of intelligence judgments, particularly in National Intelligence Estimates, we will provide them for the use of the policymakers. They can be used in whole or in part. They can be ignored, torn up, or thrown away, but they may not be changed. This is not always a popular point of view, but I think it is a sound one and one I intend to continue.

I think this kind of insistence on objectivity may be one of the most significant contributions that I could make in galvanizing a cohesive Intelligence Community without compromising the integrity of the individual analysts or the program managers assigned to do their work.

In addition to providing intelligence that is useful, timely, and objective, the CIA plays a role in implementing foreign policy. This is most often done through its covert action programs. Covert capability, essential to our foreign policy, provides needed support for liberation movements, often provides support to governments that we support, and allows us to work in collaboration with those governments who do not wish, for particular legitimate political reasons of their own, to have the U.S. role and involvement publicly known. Although covert actions traditionally claim only

a small portion of the Intelligence Community's resources -- only about three percent -- these activities are the focus of the greatest congressional and public attention. They also often receive the harshest criticism.

I won't take time this morning to describe all the procedures that are in place to guide and govern the use of covert action. You are aware of the statutory procedures, I'm sure, that require that Congress be notified in a timely fashion of all significant intelligence activities through the intelligence committee of the House and the intelligence committee of the Senate. In addition to these, the President must find, and must make an actual finding, that the action is necessary for the national security. But even before this process takes place, under procedures now internally adopted and working, the proposals must work their way through the Central Intelligence Agency to a group which we call CARG, the Covert Action Review Group. This group analyzes not only the practicality of the proposal -- if it will work -- but asks itself questions such as whether it's consistent with the overt foreign policy of the United States. This was not the case in the Iran-Contra affair. We also ask whether a covert action, if it became public, would make sense to the American people. These same tests are applied as it goes forward through the National Security Council Planning Group to the National Security Council itself where in the presence of the President the arguments for and against covert action are made and the President makes the final decision. These are not unguided missives. These are not unsupervised missives. They are now carefully formed, and I think that capability is absolutely necessary to our foreign policy. Congress is very much involved and Congress, as you know, is very much interested in what the CIA does.

Not long ago, I addressed a group of retired intelligence officers, and they recalled the days when no classified papers went from the CIA to either branch of Congress. No briefings were given except by the Director himself, or with the Director present. At one time, the Senate Appropriations Committee had one cleared staffer; the House Appropriations Committee one or two. Today, four congressional committees closely examine the Agency's activities, and the number of individuals who see classified material far exceeds the one or two of the past.

Fifteen years ago, the CIA gave 175 briefings to Congress. Last year, we gave over 1,000 briefings on a variety of topics. These topics included arms control; Soviet weapons; the Persian Gulf situation; the many conflicts in Central America, Afghanistan, and Cambodia; and even the spread of AIDS in Africa. In the last year, the CIA sent over 5,000 intelligence reports to Congress. This in itself is not bad because it provokes a greater understanding based upon factual information that is available to us and shared with those who must make the decisions.

In addition to briefings and papers, we are also required to testify before Congress. I have spent so much time there in the past year that I have begun to refer to it as my "home away from home." For those who live in Little Rock and think of Hot Springs in that way, this is not quite analogous. It's much hotter on the Hill. My top executives tell me they spend about 25 percent of their time dealing with Congress. I spend about 15 percent of my time there.

Because I know of the need to be absolutely candid with Congress, and the responsibility that intelligence professionals have to protect our sources and

our methods, I have established guidelines governing our dealings with Congress. And I have made it absolutely clear that in dealing with Congress there is no excuse for deception.

There may be some questions that the Agency officials who brief Congress will have to refer back to me. They will simply demur. I will take the heat or work out arrangements with Congress. But we will not give half-answers or around-the-corner answers. If there is a problem, we will say there is a problem, and that we cannot answer the question at this time. We may ultimately have to provide an answer, and it may mean negotiation. But we will not leave the Congress feeling that in some way anyone in the CIA has been disingenuous in dealing with them.

Why? Because I firmly believe that the oversight responsibilities exercised by Congress are both necessary and beneficial. There must be a dependable system of oversight and accountability which builds, rather than erodes, trust and confidence between those who have the intelligence responsibility and those who are the elected representatives of the American people.

There are, however, instances where information pertaining to national security must not be released outside the congressional oversight committees: this includes information that could jeopardize lives, or information that threatens the means by which we protect ourselves. The disclosure of sophisticated technical systems or cryptographic information alerts a hostile nation to the need to develop countermeasures and can seriously hamper our intelligence efforts. In signals intelligence, for example, if one sensitive piece of information is published, it could put an entire intelligence system

out of use. An enormous amount of time, planning, and money would be required to replace it.

Information that is published need not even be accurate to do irreparable harm to our intelligence capabilities. Let me give you an example. Not too long ago, there was a brief flurry of news stories purporting to be based on classified intelligence -- information indicating that the Soviets had carried out certain military experiments. The stories were largely inaccurate. Yet comments on the situation -- again mostly inaccurate -- were attributed to a number of U.S. officials. Some of these officials confirmed the story, one denied it, and yet another corrected the initial story. The statements by these officials served to heighten speculation and to sustain public focus on matters involving highly sensitive U.S. intelligence collection techniques.

After these stories were published, the Soviets took countermeasures which limited our access to this type of intelligence. In short, even though the information discussed by these U.S. officials was incorrect, the net result was a further loss for U.S. intelligence.

Regrettably, some view the Intelligence Community's obligation to protect intelligence sources and methods as a threat to a free press. But I have found that most members of the press are more than willing to cooperate when we have clearly stated the reasons why certain information would jeopardize national interests.

Last fall, a reporter from a major newspaper requested a meeting with my Public Affairs Director at CIA to discuss extremely sensitive information that had come into his possession about Middle Eastern terrorism. The CIA official

advised the reporter that without any doubt this information, if published, could endanger a valuable source of intelligence and could result in loss of life. The reporter agreed to withhold the story and, to this day, has not published it.

There have been other instances in which the press has withheld stories or written them in a way that preserved the confidentiality of intelligence sources. This cooperation is a result of the credibility and good faith we have worked to establish with the press.

Our policy with the media -- like our policy with Congress -- is to be both candid and responsive. We frequently schedule background briefings for reporters who request information on international developments. And if we cannot answer a specific question from the media, we will tell them that we cannot answer it and will not try to invent a response.

In an interview with Newsweek, I tried to make the point that it is important to realize that in this organization, we are going to have to take some risks, but the risks must be associated with certain kinds of principles -- principles with which the public is comfortable. The risks must not put us afoul of the Constitution or our own laws.

A lifetime of experience in the law has convinced me that the integrity of government organizations can only be maintained by insisting upon compliance with our laws and our rules -- rules imposed to ensure our citizens that we are indeed accountable. The only way to do that is to respond as fully and candidly as we can to those charged with oversight, and then let them act as surrogates for the American people.

We also believe it is essential that the American people know and understand the role of intelligence and oversight. In addition to maintaining a relationship with the press, CIA officers often speak to academic groups and other organizations. In May, at a conference of Intelligence Community attorneys, I also urged our attorneys to discuss our role and responsibilities with the public. We want the American people to know that we are performing our duties lawfully and responsibly.

The challenges that we face -- terrorism, narcotics, technology transfer, and verifying arms agreements -- all argue the necessity of attracting top people into intelligence. I think we are fortunate in that last year, over 100,000 young men and women expressed interest in working for the Central Intelligence Agency. You have no doubt read about the protests on some college campuses when CIA recruits. Interestingly enough, these protests and the publicity they generate often work in our favor. Our recruitment centers are inundated with resumes after campus demonstrations. But we're not responsible for the campus demonstrations. We are getting about 1,000 serious applications a month, apparently a healthy indication of how young Americans feel about taking an important role in defending a country they love.

I mentioned before that in an organization like this, there is a need to take some risks. I hope that we continue to attract those best suited to carry out our mission -- people who are risk takers but not risk seekers, people who are dedicated and responsive to our law and discipline, people who understand and play by the rules, people to whom fame and fortune are not particularly a necessary part of their lives, but who can find in our work an avenue to pursue their highest aspirations for a safer and a better world.

With such people we can continue to provide the intelligence that policymakers need, observing the rules of oversight and accountability that both the Congress and the members of the Intelligence Community have the right to expect. This, I think, is what you would want of us, what indeed all Americans would want of us, and we are doing our very best to supply it.

Thank you.